



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 25-00401
)
Applicant for Security Clearance)

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro se*

02/25/2026

Decision

HARVEY, Mark, Administrative Judge:

Guidelines F (financial considerations) and E (personal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On September 10, 2019, and November 11, 2022, Applicant signed Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance applications (SCAs). (Government Exhibits (GEs) 1-2) On June 10, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine

whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines F and E. (HE 2) On October 20, 2025, Applicant provided his response to the SOR. On November 19, 2025, Department Counsel was ready to proceed. On December 1, 2025, the case was assigned to me.

On December 8, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on January 9, 2026. (HE 1) The hearing was held as scheduled using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered seven exhibits into evidence; Applicant provided two exhibits; there were no objections; and all proffered exhibits were admitted into evidence without objection. (Tr. 21-22; GE 1-GE 7; Applicant Exhibits (AE) A-AE B) On January 29, 2026, DOHA received a copy of the transcript. The record was held open after the hearing until February 10, 2026. (Tr. 80) No post-hearing documents were received.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted the allegations in SOR ¶¶ 1.a through 1.d and 2.a. (HE 3) He denied SOR ¶ 1.e. His admissions are accepted as findings of fact.

Applicant is a 49-year-old aerospace aviation specialist who has been employed by a DOD contactor for two years. (Tr. 6, 12, 24) His current annual salary is about \$89,000. (Tr. 12) He has a General Educational Development (GED) diploma, and he has not attended college. (Tr. 6) He has several certifications relating to his employment as an aircraft electrician and some military certifications. (Tr. 23) He served in the Army from 1996 until 2002; he received an honorable discharge; and he was a private (E-1) when he left the Army. (Tr. 7) He received some nonjudicial punishments (NJP) for minor military disciplinary actions. (Tr. 8) Applicant explained the NJPs as follows:

I think dereliction of duty would be one, making formation too late, and stuff like that. And it was just a lot of random stuff which caused some of my PTSD that I'm dealing with now, a lot of discrimination that I went through during some unprovoked disciplinary actions created by non-commissioned officers. (Tr. 7)

Applicant is receiving 100 percent disability from the Department of Veterans Affairs (VA) for post-traumatic stress disorder (PTSD). (Tr. 8-9; AE A) Applicant said his PTSD was due to mistreatment of him because he was in an interracial marriage, and his spouse worked on the military installation. (Tr. 78-79) The VA determination notes among other symptoms that Applicant has "disturbances of motivation and mood," memory issues, "persistent delusions," "suspiciousness," and "persistent hallucinations." (AE A at 10)

Applicant was deployed to Iraq for three and a half years and to Afghanistan for 90 days as a DOD contractor after he was discharged from the Army. (Tr. 25-26) These tours in combat zones are manifestations of his patriotism and contributions to U.S. national security.

Applicant has been married twice and is currently divorced. (Tr. 9) He has six children; three are over 18; two minors live with Applicant; and one minor lives in Germany. (Tr. 9-11, 28-30) There is no court order requiring him to pay child support for his child living in Germany. (Tr. 30) He said he is not delinquent on his child-support obligations. (Tr. 32-33)

Financial Considerations

Applicant has not had any periods of unemployment beyond a week or two for more than 20 years. (Tr. 25) The primary cause of his financial problems was his second divorce and litigation related to this divorce, which was final in 2019. (Tr. 69-74) He continued to litigate custody and child-support issues after his divorce was final. (Tr. 72-74) He said he spent \$9,000 to \$15,000 over the last few years on litigation and traveling expenses related to his divorce. (Tr. 76)

Applicant's personal financial statement (PFS) shows alimony or child support of \$960 and a net monthly remainder of \$453. (GE 3 at 10) Currently, he does not pay any alimony or child support, and he has a monthly remainder of about \$1,100 after paying expenses. (Tr. 51-52) He did not include his VA disability payments on his PFS because his PFS predated his award of 100 percent VA disability. (GE 3 at 10; AE A) The percentage of his VA disability at the time he completed his PFS is unknown. He has about \$23,000 in a foreign savings account because in the next 10 to 15 years he plans to retire and move to Germany. (Tr. 53) Applicant's credit bureau reports (CBRs) state, and his SOR alleges he has a total of five debts in collection or charged off, and they total \$25,140 as follows. (GE 3-5)

1.a is an apartment debt placed for collection for about \$8,793. Applicant received a court order directing him to move out of his apartment because of his pending divorce. (Tr. 33) The court order stated that Applicant "shall vacate the marital residence no later than" November 15, 2019, and his spouse "shall have the exclusive use of the residence. [Applicant and spouse] will cooperate with management to transfer the lease to [spouse], and work to have her downsize to a smaller apartment." (Tr. 35; AE B) He moved out of the apartment in accordance with the court order. (Tr. 34) Applicant delivered this court order to the apartment office and asked to have his name removed from the lease; however, the apartment management refused to remove his name. (Tr. 37) His spouse was evicted for failure to pay rent. (Tr. 34) He advised the creditor that he did not believe he was responsible for the debt because the court ordered him to move out of the apartment. (Tr. 38) After the divorce, his former spouse asked him to help her pay the debt, and he refused to help. (Tr. 39) His March 22, 2024 DCSA summary of background interview states, "The current status of this account is collections, and the subject does not have any future desire or obligation to make payments." (GE 4 at 11) Applicant did not present any evidence of a payment plan or payments to address this debt.

1.b is an apartment debt placed for collection for about \$7,858. During the COVID-19 pandemic in 2020, Applicant lost his employment, and the government put a moratorium on paying rent and evictions. (Tr. 40-42) However, he did not describe the period of this unemployment at his hearing. He was evicted, and he said the debt is for the rent from the eviction to the end of the lease period. (Tr. 43) His March 22, 2024 DCSA summary of background interview states, "The subject has contacted the apartment management in hopes of negotiating a settlement, but to date there have been no settlement offers. The subject plans on making the required payments once the negotiation is reached." (GE 4 at 11) At his hearing, he did not present any documentary evidence of correspondence from or to the creditor, a payment plan, or payments.

1.c is a charged-off bank debt for about \$7,752. Applicant was in the process of getting divorced. (Tr. 44) His vehicle was in the shop getting repaired. (Tr. 45) He told his spouse she could have the vehicle. (Tr. 44) He did not believe that she picked up the vehicle. (Tr. 44) She told the divorce court that she wanted to keep the vehicle; however, she did not want to make the payments to the creditor. (Tr. 45) He believed the divorce court was gender-biased against him for not detailing that she was responsible for making the payments on the vehicle. (Tr. 45) His March 22, 2024 DCSA summary of background interview states, "The subject never transferred the title of this account over to the former spouse and believed she was making the required monthly payments. The subject could not provide any details of the current status of this account." (GE 4 at 11) At his hearing, Applicant did not present any documentary evidence of correspondence from or to the creditor, a payment plan, or payments.

1.d is a charged-off bank debt for about \$640. Applicant's March 22, 2024 DCSA summary of background interview states, "The subject paid this account in full (unknown exact amount of date paid)." (GE 4 at 12) The debt is reflected as delinquent on his most recent CBR of record, and he admitted the debt in his SOR response. He did not provide any documentary evidence of correspondence from or to the creditor, a payment plan, or payments.

1.e is an insurance debt placed for collection for about \$97. Applicant's November 6, 2024 CBR indicates this debt is in collections. (GE 5 at 3) In his SOR response, Applicant said he paid this debt. (HE 3) He is credited with mitigating this account.

The SOR does not allege a federal income tax (FIT) debt. Applicant did not file a complete FIT return for tax year (TY) 2022. (Tr. 55) He said his tax service mistakenly failed to include one source of employment income on his TY 2022 FIT return. (Tr. 56-59) The Internal Revenue Service (IRS) said he owed \$22,000 in delinquent taxes; however, Applicant believed the correct amount was about \$2,000. (Tr. 55, 59-60) I asked Applicant to provide his IRS FIT transcripts for the previous five years after his hearing. (Tr. 81, 85) He did not provide the requested IRS FIT transcripts.

Personal Conduct

SOR ¶ 2.a alleges that Applicant falsified material facts on his November 11, 2022 SCA in response to "In the past seven (7) years, [have] you had bills or debts turned over

to a collection agency? [and] In the past seven (7) years, [have] you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed? (Include financial obligations for which you were the sole debtor, as well as those for which you were a cosigner or guarantor)." Applicant answered "No" to both questions, and the SOR alleges he deliberately failed to disclose that information as set forth in SOR ¶¶ 1.a through 1.e, above.

Applicant's December 2, 2022 CBR stated the debts in SOR ¶¶ 1.a through 1.c were in collections or charged off. (GE 7 at 2-3) This CBR did not list the debts in SOR ¶¶ 1.d and 1.e. The debts in SOR ¶¶ 1.d and 1.e are relatively minor, and they did not need to be disclosed on his November 11, 2022 SCA.

On April 3, 2023, a DCSA background investigator interviewed Applicant. (GE 4) The DCSA summary of interview states, "Subject clarified he has no debts, did not volunteer any additional information, and was confronted with the following accounts shown on the credit bureau report." (GE 4 at 22) After the DCSA investigator advised Applicant of the contents of his CBR, he said for the debts in SOR ¶¶ 1.a and 1.b, that he omitted the debts in an oversight. (GE 4 at 22) He said he paid the debt in SOR ¶ 1.c. (GE 4 at 22-23)

At his hearing, Applicant said he was unaware of the delinquent debts when he completed his SCA in 2022. (Tr. 64) He said he did not remember talking to the DCSA investigator about his delinquent debts. (Tr. 65-69)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority "to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy" to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable, and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and

endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, this decision should not be construed to suggest that it is based on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts” and “(c) a history of not meeting financial obligations.”

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s security eligibility.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained the role of CBRs in financial considerations analysis:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted).

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit

counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

AG ¶ 20(a) does not apply to the SOR debts. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Some circumstances partially or fully beyond Applicant's control adversely affected his finances. He experienced PTSD, divorce, and litigation related to the divorce. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)). He established that he acted responsibly under the circumstances with respect to the debt in SOR ¶ 1.e for about \$97, and he is credited with mitigating this debt. AG ¶ 20(b) partially applies. It does not fully apply because he did not establish that he acted responsibly towards the debts in SOR ¶¶ 1.a through 1.d.

Applicant's CBRs state, and his SOR alleges that he has a total of five debts in collection or charged off, and they total \$25,140. He has four unresolved SOR debts

totaling \$25,043. “[A] single debt can be sufficient to raise Guideline F security concerns.” ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). “Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations.” *Id.*

Applicants are not required “to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by ‘concomitant conduct’ that is, actions which evidence a serious intent to effectuate the plan.” ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No.13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). See *also* ISCR Case No. 23-01434 at 2-3 (App. Bd. May 7, 2024).

The Appeal Board has stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. ISCR Case No. 19-03757 at 3 (App. Bd. Aug. 18, 2021) (citing ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020)). For his unresolved SOR debts, Applicant did not provide documentation showing: (1) proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made any payments to these four creditors; (2) correspondence to creditors or CBRs showing credible debt disputes indicating he did not believe he was responsible for the debts and why he held such a belief; or (3) evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve his delinquent debts. Applicant failed to establish mitigation under AG ¶ 20(e) because he did not provide documented proof to substantiate the existence, basis, or the result of any debt disputes.

Applicant disclosed at his hearing that the IRS is seeking \$20,000 from him for his TY 2022 FIT return. He did not provide the five years of IRS FIT transcripts after his hearing that I requested. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered, stating:

- (a) to assess an applicant’s credibility;
- (b) to evaluate an applicant’s evidence of extenuation, mitigation, or changed circumstances;
- (c) to consider whether an applicant has demonstrated successful rehabilitation;
- (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or
- (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR

Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). This non-SOR allegation (non-SOR FIT debt) will be considered in the credibility assessment, analysis of mitigation, and under the whole-person concept. It will not be considered for disqualification purposes.

Applicant has not demonstrated a sufficient track record of debt payments after he became employed by his current employer and received 100 percent VA disability payments. Based on his overall history of financial irresponsibility, I am not confident that he will establish payment plans, pay, or otherwise resolve his remaining SOR and non-SOR FIT debts. Financial considerations security concerns are not mitigated.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 provides one personal conduct condition that could raise a security concern and may be disqualifying in relation to his provision of inaccurate information on his SCA:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

SOR ¶ 2.a alleges and the record establishes that Applicant falsified material facts on his November 11, 2022 SCA in response to "In the past seven (7) years, [have] you had bills or debts turned over to a collection agency? [and] In the past seven (7) years, [have] you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed? (Include financial obligations for which you were the sole debtor, as well as those for which you were a cosigner or guarantor)." Applicant answered "No" to both questions, and thereby deliberately failed to disclose that information as set forth in SOR ¶¶ 1.a through 1.c. The debts in SOR ¶¶ 1.d and 1.e did not need to be listed on his SCA.

"Applicant's statements about his intent and state of mind when he executed his Security Clearance Application were relevant evidence, but they [are] not binding on the Administrative Judge." ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019) the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant's *mens rea* in light of the entirety of the record evidence. See, e.g., ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant's intent or state of mind may not always be based on an applicant's statements but rather may rely on circumstantial evidence. *Id.*

Applicant elected not to disclose negative financial information on his SCA. The record evidence establishes AG ¶ 16(a) in relation to SOR ¶ 2.a. AG ¶ 17 provides conditions that could mitigate personal conduct security concerns in this case:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and

(f) the information was unsubstantiated or from a source of questionable reliability.

Applicant knew about his delinquent SOR debts in ¶¶ 1.a through 1.c when he completed his November 11, 2022 SCA. He provided a detailed discussion of the debts in SOR ¶¶ 1.a through 1.c at his hearing, and he discussed the SOR debts in ¶¶ 1.a through 1.c after being confronted by them in his April 3, 2023 DCSA background interview. The debts in SOR ¶¶ 1.a through 1.c are substantial, and he discussed some of them in divorce court. The memory issues noted in his VA assessment were not the cause of his failure to disclose these debts on his SCA. He intentionally chose not to disclose them on his November 11, 2022 SCA.

At his hearing, Applicant said he was unaware of the delinquent debts when he completed his SCA in 2022. He said he did not remember talking to the investigator about his delinquent debts or responding to DOHA interrogatories. His statements about being unaware of the delinquent debts in SOR ¶¶ 1.a through 1.c when he completed his SCA were false.

Applicant's false statements to the DCSA investigator when he initially denied having delinquent debts and at his hearing about not knowing about these debts will not be considered for disqualification purposes; however, they will be considered in the assessments of his credibility, mitigation, and rehabilitation.

None of the mitigating conditions fully apply. Applicant's false statement on his November 11, 2022 SCA about not having debts in collections and charged-off debts continues to cast doubt on his reliability, trustworthiness, and good judgment. Personal conduct security concerns are not mitigated

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall common-sense judgment based upon careful consideration" of the guidelines and the whole-person concept. My comments under Guidelines F and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 49-year-old aerospace aviation specialist who has been employed by a DOD contractor for two years. His current annual salary is about \$89,000. He has several certifications relating to his employment as an aircraft electrician and some military certifications. He served in the Army from 1996 until 2002; and he received an honorable discharge.

Applicant is receiving 100 percent disability from the VA for PTSD. The VA determination notes among other symptoms that he has "disturbances of motivation and mood," memory issues, "persistent delusions," "suspiciousness," and "persistent

hallucinations.” (AE A at 10) No negative psychological inference is drawn from Applicant’s PTSD diagnosis and symptoms. Applicant did not have notice of a Guideline I (psychological conditions) security concern. The record is not sufficiently developed to draw any negative inference from the PTSD diagnosis.

Applicant was concerned that his patriotism was being questioned. He was deployed to Iraq for three and a half years and to Afghanistan for 90 days as a DOD contractor. He is a loyal and patriotic American who has served this country in peace and war as a Soldier and DOD contractor. He has sacrificed his body and mental health in the service of his country as exemplified by his 100 percent service-connected VA disability rating. There is **no** concern that he would betray the United States to a foreign power.

The evidence against grant of a security clearance is detailed in the financial considerations and personal conduct sections, *supra*, and this evidence is more substantial than the evidence of mitigation.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence, to the facts and circumstances in the context of the whole person. Applicant failed to sufficiently mitigate financial considerations and personal conduct security concerns.

Formal Findings

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a through 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant (not applicable to SOR ¶¶ 1.d and 1.e)

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant’s national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge